

- Group IV (claims 83-94) stated as being drawn to a method of making a test sample; and
- Group V (claims 95-106) stated as being drawn to a method of stabilizing a test sample.

## 2. Election with Traverse

Applicants provisionally elect Group V (claims 95-106) with traverse, because the Office requires election in any response.

## 3. Traversal Based on Propriety of Restrictions

A requirement for restriction is properly made only when (1) there are two or more patentably independent and distinct inventions, and (2) the inventions cannot be simultaneously examined without serious burden on the Examiner. Applicants respectfully submit that the Restriction Requirement is not proper because it would not constitute a serious burden to search and consider each of the inventions. Each of the identified groups of claimed inventions is linked by the concept that stabilization of test samples, calibrators, and controls can be achieved, at least in part, by controlling the pH of the composition between about pH 4 and about pH 6 or pH 6.5. It is respectfully submitted that a complete patentability search for any one of the claimed inventions would seem to properly involve a search of references primarily pertaining to the other claimed invention because the Examiner might want to consider whether a reasonable suggestion of one of the claimed inventions could also reasonably be deemed to extend to the other claimed inventions. Accordingly, applicants respectfully request that each of the identified inventions (defined by each of Groups I to V) be examined together.

## 4. Traversal Based on Specific Restrictions

### **A. Inventions of Groups I and II:**

The Office Action alleges that the inventions of Groups I and II are distinct because the solution of Group I could be made by methods other than those of Group II, and the method of making of Group II could be employed to make solutions other than those of Group I. Without conceding any accuracy of this allegation, applicants respectfully submit that a search directed to the stable liquid calibrators or controls of Group I having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of Group II of making the stable liquid calibrators or controls having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups I and II at the same time.

### **B. Inventions of Groups I and III:**

The Office Action alleges that the inventions of Groups I and III are distinct because the solution of Group I could be used with different test samples than those of Group III. Without conceding any accuracy of this allegation, applicants respectfully submit that a search directed to the stable liquid calibrators or controls of Group I having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the test samples of Group III having a pH of from about 4.0 to about 6.5. On this basis,

applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups I and III at the same time.

***C. Inventions of Groups I and IV:***

The Office Action alleges that the inventions of Groups I and IV are distinct because the solution of Group I could be used with different test samples than those of Group IV. Without conceding any accuracy of this allegation, applicants respectfully submit that a search directed to the stable liquid calibrators or controls of Group I having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of making the test samples of Group IV having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups I and IV at the same time.

***D. Inventions of Groups I and V:***

The Office Action alleges that the inventions of Groups I and V are distinct because the solution of Group I could be used with different test samples than those of Group V. Without conceding any accuracy of this allegation, applicants respectfully submit that a search directed to the stable liquid calibrators or controls of Group I having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of stabilizing the test samples of Group V having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups I and V at the same time.

***E. Inventions of Groups II and III:***

The Office Action alleges that the inventions of Groups II and III are distinct because there is no relation between a method of making a solution and a test sample. Without conceding any accuracy of this allegation, applicants respectfully submit that a search the method of Group II of making the stable liquid calibrators or controls having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the test samples of Group III having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups II and III at the same time.

***F. Inventions of Groups II and IV:***

The Office Action alleges that the inventions of Groups II and IV are distinct because there is no relation between a method of making a solution and a method of making a test sample. The Office Action alleges that the inventions of Groups II and III are distinct because there is no relation between a method of making a solution and a test sample. Without conceding any accuracy of this allegation, applicants respectfully submit that a search the method of Group II of making the stable liquid calibrators or controls having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of making the test samples of Group IV having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a

serious burden for the Examiner to search and examine the inventions of Groups II and IV at the same time.

***G. Inventions of Groups II and V:***

The Office Action alleges that the inventions of Groups II and V are distinct because there is no relation between a method of making a solution and a method of stabilizing a test sample. Without conceding any accuracy of this allegation, applicants respectfully submit that a search to the method of Group II of making the stable liquid calibrators or controls having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of stabilizing the test samples of Group V having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups II and V at the same time.

***H. Inventions of Groups III and IV:***

The Office Action alleges that the inventions of Groups III and IV are distinct because the test sample of Group III could be made by methods other than those of Group IV. Without conceding any accuracy of this allegation, applicants respectfully submit that a search to the test samples of Group III having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of making the test samples of Group IV having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups III and IV at the same time.

***I. Inventions of Groups III and V:***

The Office Action alleges that the inventions of Groups III and V are distinct because the invention of Group V has a separate utility such as stabilizing test samples other than those of Group III. Without conceding any accuracy of this allegation, applicants respectfully submit that a search to the test samples of Group III having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of stabilizing the test samples of Group V having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups III and V at the same time.

***J. Inventions of Groups IV and V:***

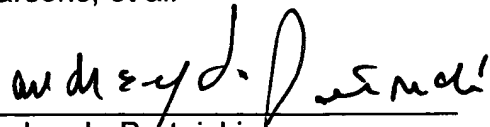
The Office Action alleges that the inventions of Groups IV and V are distinct because the invention of Group V has a separate utility such as stabilizing test samples other than those of Group IV. Without conceding any accuracy of this allegation, applicants respectfully submit that a search directed to the method of making the test samples of Group IV having a pH of from about 4.0 to about 6.5 necessarily would uncover art relating to the method of stabilizing the test samples of Group V having a pH of from about 4.0 to about 6.5. On this basis, applicants submit that it would not constitute a serious burden for the Examiner to search and examine the inventions of Groups III and V at the same time.

## CONCLUSION

The application is considered in good form for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject patent application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below.

ABBOTT LABORATORIES  
Customer Number 23492  
Telephone: (847) 938-3440  
Facsimile: (847) 938-7827

Respectfully submitted,  
Parsons, et al.

  
\_\_\_\_\_  
Audrey L. Bartnicki  
Registration No. 40,499  
Attorney for Applicants